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October 22, 2018

Hon. Analisa Torres, U.S.D.J.
United States District Court
Southern District of New York
United States Courthouse
500 Pearl Street Courtroom 15D
New York, NY 10007-1312

***RE: Venus et Fleur, LLC v. Affordable Luxury NY, Inc.
Civil Action No. 1:18-cv-09155***

On behalf of Plaintiff, Venus et Fleur, please accept this in response to the Order to Show Cause issued by the Court on October 10, 2018 regarding the appropriate venue for this case.

We respectfully submit that venue is appropriate in the Southern District of New York because that is where we believe the infringing activity has occurred. *Pilates, Inc. v. Pilates Inst., Inc.*, 891 F. Supp. 175, 182 (S.D.N.Y. 1995) (explaining venue in trademark cases under 28 U.S.C. § 1339(b), is appropriate in “a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred....” and that “in trademark infringement claims, courts have held that venue may be proper in each jurisdiction where infringement is properly alleged to have occurred.” (citations omitted)).

Plaintiff Venus et Fleur is a Manhattan based company, with a showroom located at 246 8th Avenue, New York, NY.

Defendant Affordable Luxury NY, Inc. d/b/a Pret-a-Fleur (“Pret-a-Fleur”) primarily advertises its products, and has posted infringing ads, on the Internet and various social media outlets, which means the trademark confusion may be occurring anywhere those online ads are viewed.

Plaintiff selected the Southern District as the proper venue based on Pret-a-Fleur’s website, which indicates that it operates its business from Manhattan at 3430,322 Bleecker Street, NY, NY. Below is a screenshot from Pret-a-Fleur’s website:

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The screenshot shows the Pret-a-Fleur website. At the top, there is a search bar with the placeholder "Search for products". To the right of the search bar are icons for a heart (wishlist), a shopping cart with a "0" inside, and a user account with "\$0.00". The main logo "Pret-à-Fleur" is written in a stylized script above the word "ETERNAL ROSES". Below the logo is a horizontal navigation menu with links: Home, Soho Centerpiece, Gift Boxes, Accessories, Special Events, Gallery, and Contact. A secondary navigation bar below the main menu includes Home and Shipping & Returns. The main content area is titled "SHIPPING & RETURNS". Under the heading "SHIPPING", there is a bulleted list of shipping information. Under the heading "CANCELLATIONS & RETURN POLICY", there is another bulleted list of return policy details.

SHIPPING & RETURNS

SHIPPING

- Our Products currently ship nationwide using UPS.
- We also ship to Canada, however shipping rates **DO NOT** include import fees and taxes.
- **All Products will require a minimum 24 hour processing period prior to being scheduled to ship.**
- Saturday Deliveries are not currently available for all UPS shipping options, please be aware prior to ordering.
- Products can be hand delivered by local courier if requested, including weekends. (Local NYC Area Only, Fees Apply)
- Rates and Delivery Times will vary depending on customer location and delivery options chosen during checkout.
- We do not ship to PO boxes.
- Free Shipping option is available using Ground Shipping with UPS, delivery times range from 3 to 7 business days.
- Some products may qualify for Free Shipping.
- Free Shipping may not be combined with some coupons.
- Hawaii and Alaska do not qualify for Free Shipping, please use our Flat Rate shipping option.

CANCELLATIONS & RETURN POLICY

- Unfortunately Prêt-à-Fleur does not accept most returns.
- If a package has been damaged during shipping, we may provide a refund or replacement product after a period of review.
- To cancel an item, 48 hours notice is required.
- Cancellations within 48 hours of shipping will result in a \$50 charge.
- Please contact us at customerservice@eternalrosesny.com for more information.
- Address: Prêt-à-Fleur®
3430, 332 Bleeker St, New York, NY 10014
(888) 440-2255

<https://eternalrosesny.com/shipping-returns/> (last visited 10/22/2018)

Because Manhattan is where Pret-a-Fleur is doing business, and its business includes using infringing marks in its advertising, the Southern District is an appropriate venue.

The address listed in the civil cover sheet for Defendant in North Bellmore, New York is the address for the chief executive officer listed with the New York Secretary of State's office:

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NYS Department of State
Division of Corporations
Entity Information

The information contained in this database is current through October 19, 2018.

Selected Entity Name: AFFORDABLE LUXURY NY, INC.

Selected Entity Status Information

Current Entity Name: AFFORDABLE LUXURY NY, INC.

DOS ID #: 5007219

Initial DOS Filing Date: SEPTEMBER 13, 2016

County: NASSAU

Jurisdiction: NEW YORK

Entity Type: DOMESTIC BUSINESS CORPORATION

Current Entity Status: ACTIVE

Selected Entity Address Information

DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)

C/O CAMPANELLI & ASSOCIATES
1757 MERRICK AVENUE SUITE 204
MERRICK, NEW YORK, 11566

Chief Executive Officer

LANCE HORN
926 BELLMORE AVE
NORTH BELLMORE, NEW YORK, 11710

Principal Executive Office

AFFORDABLE LUXURY NY, INC.
926 BELLMORE AVE
NORTH BELLMORE, NEW YORK, 11710

Registered Agent

NONE

We believe that 296 Bellmore Avenue is a single family residence and not a place of business.

See, e.g., https://www.zillow.com/homedetails/926-Bellmore-Ave-North-Bellmore-NY-11710/31331947_zpid/

We therefore submit that because both parties operate their businesses in Manhattan, the Southern District is the appropriate venue.

Respectfully submitted,

/s/ Sean Mack

SEAN MACK
SM/jp